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5 7455 West Washington Ave., Suite 460  
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11 4435 South Eastern Avenue  
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17 400 S. 4<sup>th</sup> Street, 6<sup>th</sup> Floor  
18 Las Vegas, Nevada 89101  
(702) 369-4161  
19 Fax: (702) 369-0104  
20 *Attorneys for Plaintiffs*

21 **UNITED STATES DISTRICT COURT**  
22 **DISTRICT OF NEVADA**

23 KEITH E. FAGIANA, and	)	CASE NO. 2:10-cv-00998-GMN-PAL
24 JEANETTE V. PAGE,	)	
(Re: 7412 Pinedale Avenue)	)	
	)	<b>MOTION TO ENLARGE TIME FOR</b>
25 Plaintiffs,	)	<b>SERVICE AND FOR AN ORDER</b>
26 vs.	)	<b>THAT SERVICE BE MADE BY</b>
	)	<b>PUBLICATION OF SUMMONS</b>
27 ATLAS MORTGAGE FUNDING	)	
CORPORATION; a Foreign Corporation	)	
28 DORIS MITCHELL; an Individually	)	
CAPITAL SIX FUNDING; a Foreign	)	

1 Corporation; PREMIER MORTGAGE )  
 2 SERVICES LLC; a Foreign Limited )  
 3 Liability Company; FIRST )  
 4 COMMERCIAL CORPORATION a )  
 5 Foreign Corporation; REGIONS )  
 6 FINANCIAL CORPORATION )  
 7 a Foreign Corporation; COUNTRYWIDE )  
 8 HOME LOANS INC.; a Foreign )  
 9 Corporation; BAC HOME LOANS )  
 10 SERVICING, LP.; a Foreign Limited )  
 11 Partnership; ROE Rating Company; )  
 12 DOES 1- 100, inclusive; ROE )  
 13 CORPORATIONS 1 - 100, inclusive. )  
 14 )  
 15 Defendants.

16 COMES NOW, Plaintiffs KEITH FAGIANA AND JEANETTE PAGE by and through their  
 17 attorneys MICHAEL R. HALL, ESQ., STEVEN T. JAFFE, ESQ., and JACOB S. SMITH, ESQ. of  
 18 the law firm of HALL, JAFFE & CLAYTON, LLP, hereby moves this Honorable Court for an  
 19 Order to Enlarge the Time for Service and for and Order that Service be Made by Publication of  
 20 Summons.

21 This motion is made and based on the following points and authorities and all pleadings and  
 22 papers on file herein, any affidavits and exhibits attached hereto.

### 23 MEMORANDUM OF POINTS AND AUTHORITIES

#### 24 I. PROCEDURAL HISTORY

25 Plaintiffs filed their Complaint on May 13, 2010. Multiple attempts to personally serve  
 26 Defendant DORIS MITCHELL have been unsuccessful. Plaintiffs believe that her whereabouts are  
 27 unknown. Accordingly, Plaintiffs request that this Court grant their Motion for Order to Enlarge the  
 28 Time for Service and for an Order that Service be made by Publication of Summons.

#### II. ARGUMENT

Local Rule 4-1 of the U.S. District Court Rules allows for service pursuant to state rules,  
 provided counsel seeking such service “furnishes the court with all forms and papers needed to  
 comply with the requirements.” LR 4-1 (2010).

1 The Nevada Rules of Civil Procedure provide that "Upon a showing of good cause, the Court  
2 shall extend the time for service and set a reasonable date by which service should be made."  
3 N.R.C.P. 4(i). The Rules further provide for service by publication "when the person on whom  
4 service is to be made resides out of state, or has departed from the state, **or cannot, after due**  
5 **diligence, be found within the state**" (Emphasis added). NRCP 4(e)(1).

6 Attached hereto are affidavits of due diligence outlining the attempts made to serve the  
7 Defendant DORIS MITCHELL (Affidavits of Due Diligence, attached hereto as **Exhibit 1**).  
8 Plaintiffs have made good-faith attempts to serve the Defendant in person, but have been unable to  
9 successfully serve Defendant, and Plaintiffs seek an executed Order (which Order is attached hereto  
10 as **Exhibit 2**) from the Court granting the Plaintiffs additional time in which to serve the Defendant  
11 DORIS MITCHELL via publication in a local newspaper.

### 12 **III. CONCLUSION**

13 For all the foregoing reasons, and because Plaintiffs have made a good-faith effort to serve  
14 the Defendant and has presented good cause, Plaintiffs respectfully requests this Court grant their  
15 Motion to Enlarge the Time for Service and for an Order that Service be made by Publication of  
16 Summons.

17 DATED this 13 day of August, 2010.

18  
19 HALL JAFFE & CLAYTON, LLP

20  
21 By \_\_\_\_\_

22 MICHAEL R. HALL  
23 Nevada Bar No. 005978  
24 STEVEN T. JAFFE

Nevada Bar No. 007035

JACOB S. SMITH

Nevada Bar No. 10231

7455 West Washington Ave., Suite 460

Las Vegas, Nevada 89128

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that I am an employee of HALL JAFFE & CLAYTON, LLP, and that on the 13 day of August 13, 2010, the foregoing **MOTION TO ENLARGE TIME FOR SERVICE AND FOR AN ORDER THAT SERVICE BE MADE BY PUBLICATION OF SUMMONS** was served upon the below listed parties via CM/ECF as follows:

G. DALLAS HORTON, ESQ.  
**G. DALLAS HORTON & ASSOCIATES**  
4435 South Eastern Avenue  
Las Vegas, Nevada 89119  
Fax: (702) 385-3101  
*Attorneys for Plaintiff*

ROBERT D. VANNAH, ESQ.  
MARK L. JACKSON, ESQ.  
**VANNAH & VANNAH**  
400 S. 4th Street, 6th Floor  
Las Vegas, Nevada 89101  
Fax: (702) 369-0104  
*Attorneys for Plaintiff*

J. Christopher Jorgensen, Esq.  
S. Paul Edwards, Esq.  
**LEWIS AND ROCA**  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
*Attorneys for BAC Home Loans Servicing,  
and Countrywide Home Loans, Inc.*

  
\_\_\_\_\_  
An employee of HALL JAFFE & CLAYTON, LLP

## **EXHIBIT 1**

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGLANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING  
CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by Paradigm Attorney Service, Inc. on 06/14/2010 to be served upon:

DORIS MITCHELL

I, Zachary A. Van Dette, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

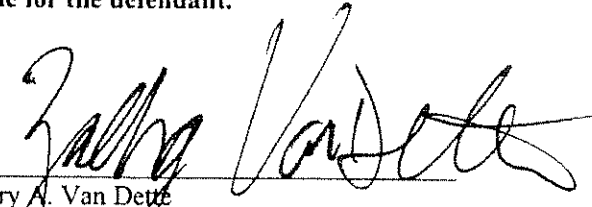
I am authorized to serve this process in the circuit/county it was served in.

On 06/18/2010 at 11:41 AM, I attempted to serve the within SUMMONS; COMPLAINT on DORIS MITCHELL at 3355 Spring Mountain Rd., Ste. 59, Las Vegas, NV 89103 in the manner indicated below:

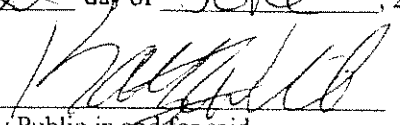
NON-SERVICE: For the reason(s) in the comments below:

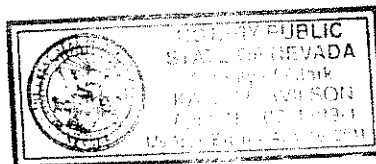
Comments/Prev. Attempts: I am unable to serve the defendant at the above address at this time. This is Diaspora International Consultants, I spoke to Dr. Girma Siede who stated that he has been here for 6 years and has never employed or heard of the defendant. I called the property management company, Ribeiro Company, and spoke to the office and was told that they have no record on file for the defendant.

X

  
Zachary A. Van Dette  
Paradigm Attorney Service, Inc. - Lic#: 1361  
610 S. 10th Street  
Las Vegas, NV 89101  
702.385.7874  
Atty File#: Keith Fagiana - Our File# 38990

SUBSCRIBED AND SWORN to before me  
this 22 day of June, 2010.

  
Notary Public in and for said  
County and State.



DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING  
CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by **Paradigm Attorney Service, Inc.** on **05/17/2010** to be served upon:

**DORIS MITCHELL**

I, **Zachary A. Van Dette**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

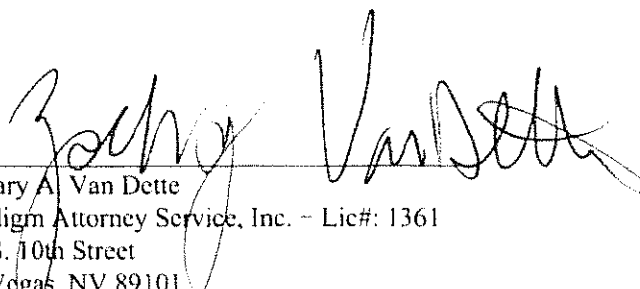
I am authorized to serve this process in the circuit/county it was served in.

On **05/21/2010** at **12:16 PM**, I attempted to serve the within **SUMMONS; COMPLAINT** on **DORIS MITCHELL** at **889 S. Rainbow Blvd., Ste. 708 , Las Vegas, NV 89145** in the manner indicated below:

**NON-SERVICE:** For the reason(s) in the comments below:

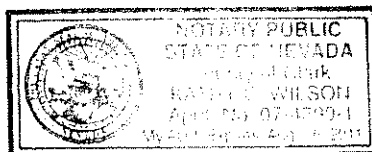
Comments/Prev. Attempts: **I am unable to serve the defendant at the above address at this time. This is a Mail Store and there is no employee by the defendants name. There is a box 708 but they could not give me any information regarding the box holder.**

X

  
Zachary A. Van Dette  
Paradigm Attorney Service, Inc. - Lic#: 1361  
610 S. 10th Street  
Las Vegas, NV 89101  
702.385.7874  
Atty File#: **Keith Fagiana** - Our File# **38096**

SUBSCRIBED AND SWORN to before me  
this 21 day of June, 2010

  
Notary Public in and for said  
County and State.



DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING  
CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by Paradigm Attorney Service, Inc. on 05/17/2010 to be served upon:

DORIS MITCHELL

I, Zachary A. Van Dette, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On 05/24/2010 at 02:00 PM, I attempted to serve the within SUMMONS; COMPLAINT on DORIS MITCHELL at 3340 Topaz St., Ste. 150B, Las Vegas, NV 89121 in the manner indicated below:

NON-SERVICE: For the reason(s) in the comments below:

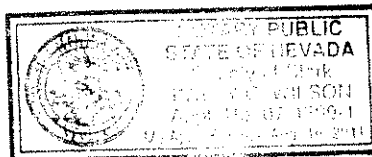
Comments/Prev. Attempts: I am unable to serve the defendant at the above address at this time. This is the National Association for the Advancement of Colored People. I spoke with the employees at this address and the defendant was unknown at this office.

X

Zachary A. Van Dette  
Paradigm Attorney Service, Inc. - Lic#: 1361  
610 S. 10th Street  
Las Vegas, NV 89101  
702.385.7874  
Atty File#: Keith Fagiana - Our File# 38989

SUBSCRIBED AND SWORN to before me  
this 21 day of June, 2010

Notary Public in and for said  
County and State.





DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-10-616553

AFFIDAVIT OF DUE DILIGENCE

KEITH E. FAGIANA; et al

Plaintiff/Petitioner,

vs.

ATLAS MORTGAGE FUNDING  
CORPORATION; et al

Defendant/Respondent.

SUMMONS; COMPLAINT received by **Paradigm Attorney Service, Inc.** on **06/17/2010** to be served upon:

**DORIS MITCHELL**

I, **Bruce Feher**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county in was served in.

On **06/21/2010** at **11:10 AM**, I attempted to serve the within **SUMMONS; COMPLAINT** on **DORIS MITCHELL** at **5222 Holbrook Dr. , Las Vegas, NV 89103** in the manner indicated below:

**NON-SERVICE:** For the reason(s) in the comments below:

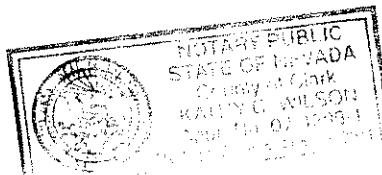
Comments/Prev. Attempts: **I am unable to serve the defendant at the above address at this time. The residence is vacant and for sale.**

X 

Bruce Feher  
Paradigm Attorney Service, Inc. – Lic#: 1361  
610 S. 10th Street  
Las Vegas, NV 89101  
702.385.7874  
Atty File#: **Keith Fagiana** – Our File# **39013**

SUBSCRIBED AND SWORN to before me  
this 24 day of June, 2010

  
Notary Public in and for said  
County and State.



## **EXHIBIT 2**

MICHAEL R. HALL  
Nevada Bar No. 005978  
STEVEN T. JAFFE  
Nevada Bar No. 007035  
JACOB S. SMITH  
Nevada Bar No. 10231  
**HALL JAFFE & CLAYTON, LLP**  
7455 West Washington Ave., Suite 460  
Las Vegas, Nevada 89128  
(702) 316-4111  
Fax: (702) 316-4114

G. DALLAS HORTON  
Nevada Bar No. 005996  
MONTE HALL  
Nevada Bar No. 000296  
**G. DALLAS HORTON & ASSOCIATES**  
4435 South Eastern Avenue  
Las Vegas, Nevada 89119  
(702) 380-3100  
Fax: (702) 385-3101

ROBERT D. VANNAH  
Nevada Bar No. 002503  
MARK L. JACKSON  
Nevada Bar No. 010905  
**VANNAH & VANNAH**  
400 S. 4<sup>th</sup> Street, 6<sup>th</sup> Floor  
Las Vegas, Nevada 89101  
(702) 369-4161  
Fax: (702) 369-0104

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

KEITH E. FAGIANA, and	)	CASE NO. 2:10-cv-00998-GMN-PAL
JEANETTE V. PAGE,	)	
(Re: 7412 Pinedale Avenue)	)	
	)	<b>ORDER GRANTING MOTION TO</b>
Plaintiffs,	)	<b>ENLARGE TIME FOR SERVICE BE</b>
vs.	)	<b>MADE BY PUBLICATION OF</b>
	)	<b>SUMMONS</b>
ATLAS MORTGAGE FUNDING	)	
CORPORATION; a Foreign Corporation	)	

DORIS MITCHELL; an Individually )  
 CAPITAL SIX FUNDING; a Foreign )  
 Corporation; PREMIER MORTGAGE )  
 SERVICES LLC; a Foreign Limited )  
 Liability Company; FIRST )  
 COMMERCIAL CORPORATION a )  
 Foreign Corporation; REGIONS )  
 FINANCIAL CORPORATION )  
 a Foreign Corporation; COUNTRYWIDE )  
 HOME LOANS INC.; a Foreign )  
 Corporation; BAC HOME LOANS )  
 SERVICING, LP.; a Foreign Limited )  
 Partnership; ROE Rating Company; )  
 DOES 1- 100, inclusive; ROE )  
 CORPORATIONS 1 - 100, inclusive. )  
 Defendants. )

Plaintiffs' Motion to Enlarge Time for Service and for an Order that Service be Made by Publication of Summons, and the Court having examined the records and documents on file in the above-entitled matter, and being fully advised of the premises of Plaintiffs' Motion, and good cause appearing:

IT IS HEREBY ORDERED that Plaintiffs' Motion to Enlarge Time for Service and for and Order that Service be Made by Publication of Summons is GRANTED.

IT IS FURTHER ORDERED that the time for service of process is hereby extended up to and including October 30, 2010.

IT IS FURTHER ORDERED that Defendant DORIS MITCHELL be served by publication for a period of four (4) weeks in the Nevada Legal News, with the notice to be published at least once per week during the four (4) week period.

  
 UNITED STATES DISTRICT COURT JUDGE

DATED: August 19, 2010

1 Respectfully submitted by:

2 HALL JAFFE & CLAYTON, LLP

3  
4  
5 By

  
MICHAEL R. HALL, ESQ.

Nevada Bar No. 005978

STEVEN T. JAFFE, ESQ.

Nevada Bar No. 007035

JACOB S. SMITH, ESQ.

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7455 West Washington Ave., Suite 460

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